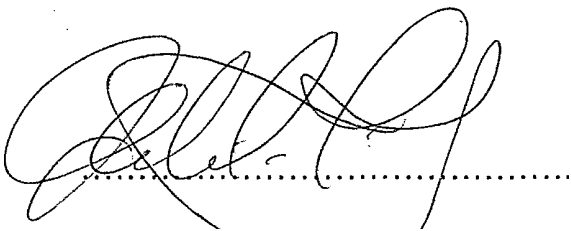

NEWCASTLE PORT CORPORATION
(Trading as Port Authority of New South Wales)

PORT SAFETY OPERATING LICENCE
2019 – 2024

PORTS AND MARITIME ADMINISTRATION ACT 1995
PORT SAFETY OPERATING LICENCE

I, Melinda Pavey, MP, Minister for Roads, Maritime and Freight, pursuant to section 12 (2) of the Ports and Maritime Administration Act 1995, hereby issue a Port Safety Operating Licence to Newcastle Port Corporation, subject to the terms and conditions specified within the Licence Document.

A handwritten signature in black ink, appearing to read 'Melinda Pavey', is written over a horizontal dotted line.

19 DEC 2018

The Hon. Melinda Pavey MP

Minister for Roads, Maritime and Freight

Date:

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RECORD OF CHANGES

Identification of Changes and Date of Change	Date Entered	Entered by Whom
Summary of changes shown in Enclosure B of Notice sent to the CEO of Port Authority of NSW 1 July 2022 from Transport for NSW	1 July 2022	Transport for NSW
Summary of changes shown in Enclosure B of Notice sent to the CEO of Port Authority of NSW 30 November 2023 from Transport for NSW	30 November 2023	Transport for NSW

PART 1 GENERAL

1. Parties

This Licence is issued pursuant to section 12(2) of the *Ports and Maritime Administration Act 1995* on the first day of January 2019 and relates to the following Parties:

- (a) The Hon. Melinda Pavey, MP, Minister for Roads, Maritime and Freight of Level 17, 52 Martin Place, SYDNEY, NSW 2000, (the Minister); and
- (b) Newcastle Port Corporation (ABN 50 825 884 846) trading as Port Authority of New South Wales of Level 4, 20 Windmill St, Walsh Bay NSW 2000 (the Licensee).

2. Purpose of Licence

The purpose of this Licence is to further detail the:

- (a) Port Safety Functions exercisable by the Licensee;
- (b) Terms and conditions applicable to the exercise of the Port Safety Functions; and
- (c) Performance standards and quality assurance programs applicable to the provision of services associated with the discharge of the Port Safety Functions.

3. Definitions

"**Act**" means the *Ports and Maritime Administration Act 1995*.

"**Aid to Navigation**" or "**AtoN**" means either a physical, synthetic or virtual aid to navigation.

"**AMSA**" means the Australian Maritime Safety Authority.

"**Annually**" means within 15 working days after 30 June each year.

"**Areas of Operations**" means the areas shown or described in Appendix 1 except in the case of out of Port responses to oil and chemical spills where it means the areas as described in the *NSW State Waters Marine Oil and Chemical Spill Contingency Plan* and shown in Appendix 2.

"**Berthing Boxes**" are those areas of wetland adjacent to the face of the berth and anchorages such as bank anchorages, mooring buoys and dolphins used for the berthing and mooring of Vessels.

"**Certification**" means the certification made in relation to the achievement of performance standards and requirements set out in this Licence, as outlined in the Annual Report to the Minister referred to in Clause 20.1.

"**Channel**" means that part or area of navigable waters suitable for the navigation of Vessels, whether or not indicated by navigation marks or whether or not the same has been provided by dredging and includes any Channels established by the Licensee or Port Operator.

"**Dangerous Goods**" means the goods listed in the International Maritime Dangerous Goods Code (*IMDG Code*) issued by the International Maritime Organization, as in force from time to time.

"**Emergency Response Plan**" means a contingency plan prepared by the Licensee which describes how the Licensee will respond to an accident or incident within the Port and Area of Operations respectively and describes the support which will be provided by the Licensee to another controlling or coordinating authority during emergency operations.

"Enforcement Guidelines" means the *Enforcement Guidelines for a Discharge of Oil or Noxious Liquid Substances Occurring in NSW State Waters* as may be issued by Transport for NSW and provided to the Licensee from time to time.

"Guidelines" means the *Australian Port Marine Safety Management Guidelines* as published by Ports Australia from time to time on the website of Ports Australia.

"IALA" means the International Association of Marine Aids to Navigation and Lighthouse Authorities.

"Law" includes any requirement of any statute, rule, regulation, proclamation, ordinance or by-law, present or future, and whether state, federal or local.

"Licence Fee" means the fee payable by the Licensee in accordance with section 14 of the Act.

"Marine Pilotage Code" means the *NSW Marine Pilotage Code* as in force from time to time and published by the Minister on the website of Transport for NSW.

"Marine Pollution Act" means the *Marine Pollution Act 2012*.

"Marine Safety Act" means the *Marine Safety Act 1998*.

"Minister's Authorised Officer" means the Transport Secretary, or the person nominated from time to time by the Minister who at the time of issuing this Licence is the Deputy Secretary, Regional and Outer Metropolitan Division in Transport for NSW.

"National Plan" means the *National Plan for Maritime Environmental Emergencies*, as amended from time to time, and its associated Inter-Governmental Agreement(s) and any other agreement in writing between AMSA and the Licensee in respect of equipment owned by AMSA.

"NSW Plan" means the *NSW Coastal Waters Marine Pollution Plan*, a sub-plan of the State Emergency Management Plan (EMPLAN) as may be issued by Transport for NSW and endorsed by the State Emergency Management Committee.

"Non-conformance" occurs when the actual performance of a Port Safety Function or Service by the Licensee fails to meet the performance standard or requirement set out in this Licence, as identified by an audit or investigation.

"Oil and Chemical Spills" refers to spills of oil, oily mixtures or noxious substances as defined by and referred to in the Marine Pollution Act.

"Party" means the Licensee or Minister.

"PIN" means a Penalty Notice issued pursuant to the *Marine Pollution Act*.

"Ports" means the waters and areas described in the *Ports and Maritime Administration Regulation 2021* and any replacement Legislation, applicable to the Licensee, as shown in Appendix 1.

"Port Operator" means the person declared to be the port operator of the private port of Newcastle, or Port Botany and Port Kembla by the Minister by order in writing under section 3 of the Act.

"Port Safety Functions" means those functions as specified in section 11 of the Act and includes (pursuant to section 11(d) of the Act) implementing and enforcing a Towage Licence System for the Towage Ports and a Vessel Arrival System for the Port of Newcastle.

"Quality Assurance Programs" means the port safety management systems developed by the Licensee in accordance with the Guidelines and section 8.2 of this Licence.

"Response Guidelines" means the *Guidelines for Determining a Response to Maritime Incidents Occurring in NSW State Waters* as may be published by Transport for NSW and provided to Licensee from time to time.

"**Services**" means the provision of services associated with the discharge of the Port Safety Functions.

"**SOLAS**" means the *International Convention for the Safety of Life at Sea*, done at London on 1 November 1974, as amended and in force for Australia from time to time.

"**Transport for NSW**" means Transport for NSW constituted under the *Transport Administration Act 1988*.

"**Transport Secretary**" has the same meaning as in the *Transport Administration Act 1988*.

"**Towage Licence System**" means a licensing system for the provision of Towage Services in each Towage Port implemented and maintained by the Licensee under which the Licensee:

- (a) establishes and operates a process to consider and determine applications for consent and renewals of consent by persons seeking to provide Towage Services in a Towage Port;
- (b) issues a licence to Towage Services providers approved by the Licensee to provide Towage Services in a Towage Port. The licence must set out the conditions that the operator must comply with when providing Towage Services in a Towage Port, a process for addressing non-compliance by the Towage Services provider (including the ability for the Licensee to revoke the licence in certain circumstances) and other conditions considered appropriate by the Licensee; and
- (c) administers and, as determined by appropriate by the Licensee, enforces the licence referred to above.

"**Towage Port**" means the ports of Newcastle, Sydney Harbour, Botany Bay, Port Kembla and Eden.

"**Towage Services**" means any operation in connection with the holding, pushing, pulling, moving, escorting or guiding of Vessels by one or more tugs.

"**Vessel**" means a vessel as defined in the Marine Safety Act requiring pilotage in a Port.

"**Vessel Arrival System**" means a system of rules developed, administered and enforced by the Licensee through a person appointed by the Minister (or his or her delegate) to exercise the functions of a Harbour Master for the Port of Newcastle to:

- (a) direct and control the time and manner in which coal loading Vessels may enter the Port of Newcastle;
- (b) determine and, if necessary, vary (including by demotion) the order, priority of and conditions upon which those Vessels enter the Port of Newcastle; and
- (c) if necessary, suspend or refuse such Vessels permission to enter the Port of Newcastle either temporarily or permanently.

"**VTS Provider**" means authorisation to provide a vessel traffic service for an area by Australian Maritime Safety Authority as the competent authority under the *Navigation Act 2012* (Cth) in accordance with *Marine Order 64 (Vessel Traffic Services) 2022*, or any replacement Marine Order in force in Australia from time to time giving effect to Regulation 12 of Chapter V of SOLAS.

4. Meaning of Terms

Where there is any conflict or difference in meaning between terms in the Act and this Licence, the Act will prevail. Where a word or term is used in the Licence and is not defined in the Licence but is defined in the Act, the definition in the Act will apply.

5. Period of Licence

This Licence shall commence on 1 July 2022 and remain in force until 31 December 2024 unless:

- (a) terminated earlier in accordance with the Act, or
- (b) cancelled during its term by notice served on the Port Authority of NSW by the Minister.

PART 2 - CONDITIONS OF THE LICENCE**6. Grant of Licence**

- 6.1 This Licence is granted to the Licensee to enable it to perform the Port Safety Functions for the Ports of Newcastle, Sydney Harbour, Botany Bay, Port Kembla, Eden and Yamba.
- 6.2 Each Port Safety Function or Service must meet the relevant performance standards and requirements set out in this Licence.
- 6.3 Pursuant to section 13(2) of the Act, a Port Safety Function may be removed from this Licence if the Minister is satisfied that the Licensee has failed to perform the Service to the standard required in this Licence.

7. Risk Assessment and due diligence

- 7.1 As described in the Guidelines, the Licensee must conduct a formal risk assessment and engage in a comprehensive due diligence process for its relevant Port Safety Functions for each Port. The risk assessment must be reviewed on a regular basis, not exceeding 2 years, or within a reasonable time following a significant change in its operational parameters.
- 7.2 The Licensee must provide a copy of the risk assessment for each of the Ports to Transport for NSW if there is a significant change to the risk assessment at a Port or upon request.
- 7.3 The risk assessment will be used to systematically identify risks, consider risk elimination or risk mitigation strategies to control risks, and to determine the frequency of inspections and monitoring adopted by the Licensee for each Port.

8. Quality Assurance Programs

- 8.1 Pursuant to section 13(1) of the Act this Licence provides for Quality Assurance Programs for the Services that the Licensee is required to deliver in exercising the Port Safety Functions under this Licence.
- 8.2 The Quality Assurance Program that the Licensee must maintain for the Services are documented and auditable port safety management systems developed in accordance with the Guidelines.
- 8.3 The port safety management systems are required to be audited at least once a year and copies of all audit reports issued by the Licensee's auditor must be provided to Transport for NSW Annually.
- 8.4 All costs associated with obtaining and maintaining the required quality assurance Certification must be borne by the Licensee.
- 8.5 The Licensee will give Transport for NSW at least 30 days prior notification of any scheduled audit for the quality assurance Certification. Transport for NSW may send an observer to any such audit.
- 8.6 In addition to any audit required for the quality assurance Certification the Minister may require an audit to be conducted of the Licensee's performance of any or all of the Port

Safety Functions by an auditor nominated by the Minister.

- 8.7 Reasonable costs associated with such audits are to be borne by the Licensee.

9. Channel and Berthing Box Depths

The Licensee must ensure that depths in Channels and Berthing Boxes are surveyed and monitored and promulgated in accordance with the performance standards set out in Appendix 3.

10. Dangerous Goods

The Licensee must administer Part 7 of the *Ports and Maritime Administration Regulation 2021* in relation to the management of Dangerous Goods in the Ports in accordance with the performance standards set out in Appendix 4.

11. Emergency Response

- 11.1 The Licensee must respond to Port-related emergencies, in accordance with the Licensee's role in the relevant NSW emergency management plans, within the Areas of Operations set out in Appendix 1.
- 11.2 The Licensee must respond to incidents as required by the NSW Plan and the Response Guidelines, or the relevant NSW emergency management plans, in the Areas of Operations set out in Appendix 2.
- 11.3 The Licensee shall comply with the emergency response requirements set out in Appendix 5.

12. Aids to Navigation

The Licensee must ensure:

- (a) that Aids to Navigation are regularly inspected and maintained;
- (b) that there is adequate internal reporting and external notification to mariners as determined by the Harbour Master of each of the Ports of Aids to Navigation which are malfunctioning, out of position or missing; and
- (c) that any malfunctioning, out of position or missing Aids to Navigation are repaired or replaced;

in accordance with the performance standards set out in Appendix 6.

13. Pilotage and Exemptions from Pilotage

- 13.1 Pilotage
- (a) The Licensee must ensure that there are pilotage services in the Ports that comply with Part 6 of the *Marine Safety Act 1998*.
 - (b) The Licensee must provide for:
 - (i) initial and on-going training of pilots including emergencies arising during pilotage; and
 - (ii) appropriate allocation of pilots to Vessels.
 - (c) Where the Licensee has been delegated the power to issue Marine Pilotage Licences under the provisions of the *Marine Safety Act 1998* or any replacement Legislation, the Licensee must ensure that any

requirements attached to the delegation and the requirements of the Legislation, including Regulations, can be met and that an appropriate and accountable system for the issuing of Licences is in place.

(d) The performance standards to be achieved are set out in Appendix 7.

13.2 Exemptions from pilotage

- (a) Where the Licensee has been delegated the power to issue Pilotage Exemption Certificates under the provisions of the Marine Safety Act 1998 or any replacement Legislation, the Licensee must ensure that any requirements attached to the delegation, the requirements of the Legislation, including any Regulations, are met.
- (b) Where the Licensee is the agency granting the Pilotage Exemption Certificate, the Licensee must ensure that a Master seeking to enter or depart any of its Ports without a pilot has a valid Pilotage Exemption Certificate.
- (c) The Licensee must provide Transport for NSW with a list of all persons holding valid Pilotage Exemption Certificates as soon as practicable upon request.
- (d) The performance standards to be achieved are set out in Appendix 8.

14. Vessel Traffic Services and Port Communications

14.1 The Licensee must provide a Vessel Traffic Services (VTS) or port communications service for each Port which is appropriate to the risk profile of the relevant Port.

14.2 In respect of its VTS and port communication systems, the Licensee must:

- (a) maintain authorisation as a VTS Provider for areas appropriate to the risk assessment of the Ports of Newcastle, Sydney Harbour, Botany Bay and Port Kembla;
- (b) be capable of effecting communications to Vessels:
 - (i) for the Ports for which the Licensee is a VTS Provider, within the VTS area; or
 - (ii) for other Ports, within a reasonable vicinity of the Port.
- (c) be appropriately resourced, equipped, maintained, and for the Ports of Newcastle, Sydney Harbour, Botany Bay and Port Kembla, operational 24 hours a day, seven days a week throughout the year;
- (d) for the Ports of Newcastle, Sydney Harbour, Botany Bay and Port Kembla, incorporate a recording capability to enable all communications made through that system to be recorded 24 hours a day, seven days a week throughout the year. Recordings are to be retained for a minimum of 28 days, however where a request for access of such recordings has been received by the Licensee and accepted in accordance with its protocols, until the Licensee reasonably concludes that the retention of such data is no longer required; and,
- (e) for the Ports of Eden and Yamba maintain a port communication system appropriate to the risk assessment for the Port, which may meet a lesser standard than the Ports of Newcastle, Sydney Harbour, Botany Bay and Port Kembla.

14.3 The Licensee must develop, implement and regularly review procedures for the VTS or port communications systems. These procedures must ensure that accurate and up to date port safety information is broadcast.

15. Vessel Arrival System

The Licensee must maintain the Vessel Arrival System for the Port of Newcastle.

16. Reporting of Accidents/Incidents

- 16.1 The Licensee must use all reasonable endeavours to notify Transport for NSW, in accordance with an agreed format, of every marine accident/incident involving a Vessel in a Port known to the Licensee detailed in the following table:

Table 1: Nature of accident or incidents to be reported to Transport for NSW

Incident Level	Nature of Accident or Incident	Reporting Time
1	Minor accident/incident resulting in damage to infrastructure or to a vessel greater than A\$20,000	72 hours
2	Close quarters incident which could have resulted in a level 3 accident	12 hours
3	Accident resulting in: a) Fatality; b) Major damage to infrastructure or vessel; or c) Non-fatal with serious injuries*.	Immediately

* Serious injury is an injury which requires hospitalisation.

- 16.2 The Licensee must notify Transport for NSW of any marine pollution incidents or accidents known to the Licensee, within the areas specified in Appendices 1 and 2 in accordance with the following schedule and definitions:

Table 2: Reporting schedule for marine pollution incidents or accidents

Incident Level	Pollution Event or Risk in State waters	Reporting Time
1	Minor pollution in State waters	Quarterly, as part of the report provided under Clause 16.4
2	Significant pollution in State waters	Immediately and consistent with the Emergency Response Plan
3	Complex pollution in State waters	Immediately and consistent with the Emergency Response Plan

- 16.3 In the Table in Clause 16.2, the following definitions apply subject to the applicable Emergency Response Plan:

"Minor pollution" means a Level 1 Incident as described in the National Plan or an event that causes sheen and can be typically removed by mechanical dispersion of the pollutant (including use of sorbent material) or natural dispersal over a few hours.

"Significant pollution" means a Level 2 Incident as described in the National Plan or is reasonably expected to generate significant media interest.

"Complex pollution" means a Level 3 Incident as described in the National Plan or is reasonably expected to generate significant media interest.

- 16.4 The Licensee will provide a consolidated quarterly report of all accidents or incidents notified in accordance with Clauses 16.1 and 16.2 to Transport for NSW in an agreed format, within ten working days following the end of each quarter.

17. Investigations of Oil and Chemical Spills

- 17.1 The Licensee must carry out investigations into all reported oil and chemical spills, within the areas specified in Appendices 1 and 2.
- 17.2 After completion of each investigation, the Licensee must consider the Enforcement Guidelines, the Response Guidelines and the Licensee's own written procedures to determine the appropriate action to pursue against offenders.
- 17.3 The Licensee may refer the outcome of an investigation to Transport for NSW for its own consideration taking into account the Enforcement Guidelines and the Response Guidelines. In respect of such a referral, the Licensee must provide Transport for NSW details of all evidence the Licensee has collected related to the investigation.
- 17.4 The Licensee must advise Transport for NSW of the outcome of all investigations and prosecutions under the Marine Pollution Act and PINs issued.

18. Towage

- 18.1 The Licensee is to promote the provision of safe and efficient towage services by third parties within the Ports.
- 18.2 The Licensee must implement and maintain a Towage Licence System for each Towage Port.
- 18.3 For the avoidance of doubt, the Licensee may implement and maintain a different Towage Licence System in each Towage Port.
- 18.4 The Licensee is to consult with the Minister's Authorised Officer on any proposals it may develop for legislation or other measures that will promote the provision of safe and efficient towage services by third parties within the Ports.

19. Charges

- 19.1 The Licensee may fix and collect navigation service charges for the Ports of Sydney Harbour, Botany Bay, Eden and Yamba and the pilotage charges for all the Ports under this licence, under Sections 51 and 54 of the Act.
- 19.2 The Licensee must comply with Part 6 Price monitoring scheme of the Act in relation to navigation service charges.
- 19.3 Navigation service charges collected by the Licensee are payable to the Licensee.
- 19.4 No part of the amount of navigation service charges is required to be remitted to the Minister.

20. Reporting Requirements

- 20.1 The Licensee must submit to the Minister an annual report of its performance in respect of this Licence, which should include a written declaration that it has achieved all of its Port Safety Functions. The form of reporting is set out in Appendix 9.
- 20.2 The report must be signed by the Chief Executive Officer of the Licensee or the person acting in that capacity.

20.3 The report must be submitted Annually.

21. Non-conformance

21.1 On any occasion when it appears to Transport for NSW or the Minister that a non-conformance with any requirement of this Licence may have occurred:

- (a) Transport for NSW or the Minister shall advise the Licensee in writing of the apparent non-conformance and provide a reasonable period for the Licensee to explain or refute the apparent non-conformance;
- (b) upon receipt of that notice the Licensee shall have the opportunity to make written submissions that explain or refute the apparent non-conformance;
- (c) upon receipt of the Licensee's written submission or the effluxion of time for the making of those submissions, Transport for NSW or the Minister shall make a determination as to whether a non-conformance has occurred and shall so advise the Licensee in writing; and
- (d) upon establishing a non-conformance and where reasonable explanation for the non-conformance is not provided by the Licensee, the Minister may forward a notice to the Licensee, requiring action to achieve compliance with this Licence within a specified period.

21.2 Should the Licensee fail to comply with the notice referred to in Clause 21.1(d), or repeat the non-conformance, within a twelve-month period, without a reasonable explanation, the Minister may remove the relevant Port Safety Function or Service from the Licence.

21.3 Where a non-conformance has occurred in respect of:

- (a) out of port oil and chemical spill responses in the areas specified in Appendix 2; or
- (b) reporting of accidents/incidents involving recreational and commercial vessels as detailed in the Marine Accident/Incident Reporting tables at Clauses 16.1 and 16.2 and which do not affect the provision of services for the safe operation of any of the Ports;

it will not lead to the removal from the Licence of any Port Safety Functions being carried out by the Licensee.

22. Variation of Licence

22.1 The Minister may vary this Licence in accordance with Section 15 of the Act.

22.2 Where either Party wishes any term of the Licence relating to the Port Safety Functions (including any amendments or additional term/s) to be varied, it must serve a notice upon the other Party specifying the proposed amendments.

22.3 Upon receipt of a notice under Clause 22.2, the Parties will promptly discuss its contents and upon agreement will seek to have the Licence amended in accordance with the Act.

22.4 Both Parties must use their best endeavours to resolve any differences but in the event that no resolution can be reached, the decision of the Minister shall be final and binding.

23. Request for Information

The Licensee must provide the Minister or Transport for NSW with any information or advice in response to a request in relation to any of the functions under this Licence, within ten working days.

24. Review of Licence

24.1 If required, the Licensee must meet with Transport for NSW Annually to review the Licence and to discuss:

- (a) performance of Port Safety Functions and Services associated with this Licence over the past year;
- (b) potential for improvements in the performance standards; and
- (c) proposed amendments to the Licence.

24.2 The Minister may initiate a review of this Licence at any time.

PART 3 LICENCE FEES

25. Payment of the Licence Fee

25.1 The Licence Fee may be fixed by the Minister, in consultation with the Licensee.

25.2 The Licensee must pay any Licence fee to the Minister:

- (a) without demand; and
- (b) by quarterly payments in arrears with terms as negotiated and agreed between the Parties.

PART 4 MISCELLANEOUS

26. Costs

The costs of complying with and maintaining this Licence must be borne by the Licensee.

27. Compliance with Laws

- 27.1 The Licensee must discharge its responsibilities and carry out its functions under this Licence in accordance with the Act and all applicable legislation.
- 27.2 The grant of this Licence does not affect the obligations and responsibilities of the Licensee imposed by delegations under legislation.
- 27.3 Nothing in this Licence imposes on the Licensee any legal obligation that is the statutory obligation of a third party nor does it impose on the Licensee any greater obligation than that imposed by Law.

APPENDIX 1 Port Boundaries

Port boundaries are defined in Schedule 4 of the *Ports and Maritime Administration Regulation 2021* which should be referred to for detailed information on the port boundaries. The following maps indicate these boundaries:

Port Boundaries - Newcastle Harbour

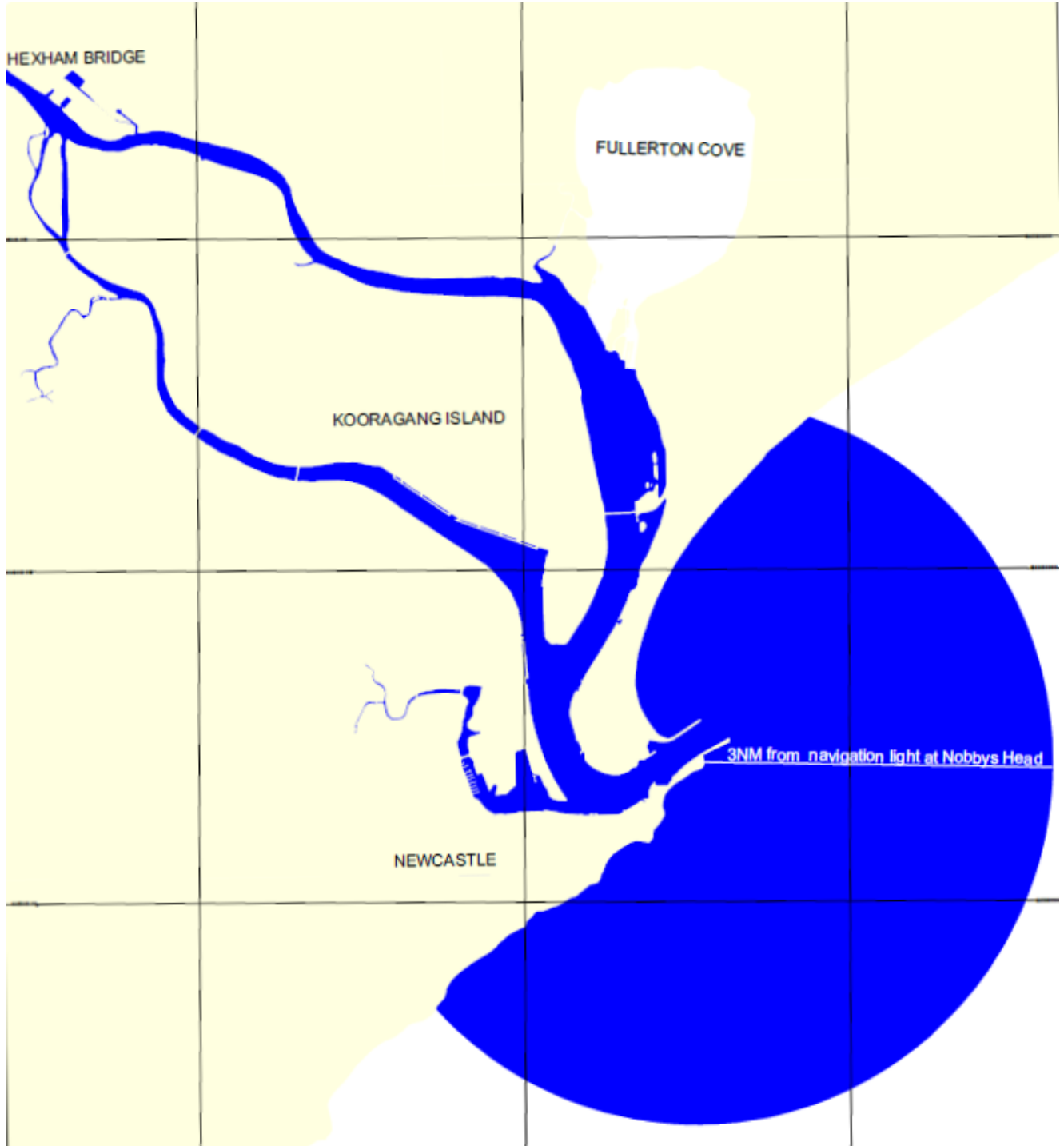


Figure 1: Port Boundaries - Newcastle Harbour

Port Boundaries - Sydney Harbour

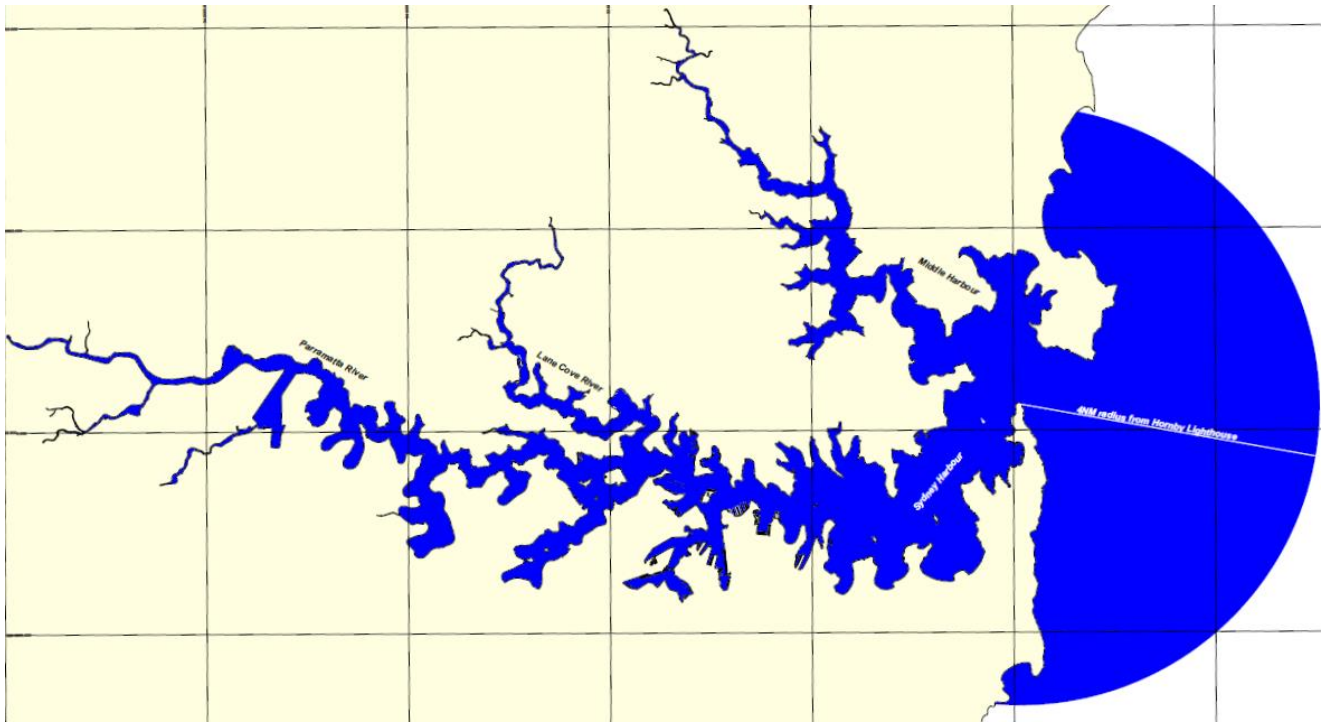


Figure 2: Port Boundaries - Sydney Harbour

Port Boundaries - Botany Bay

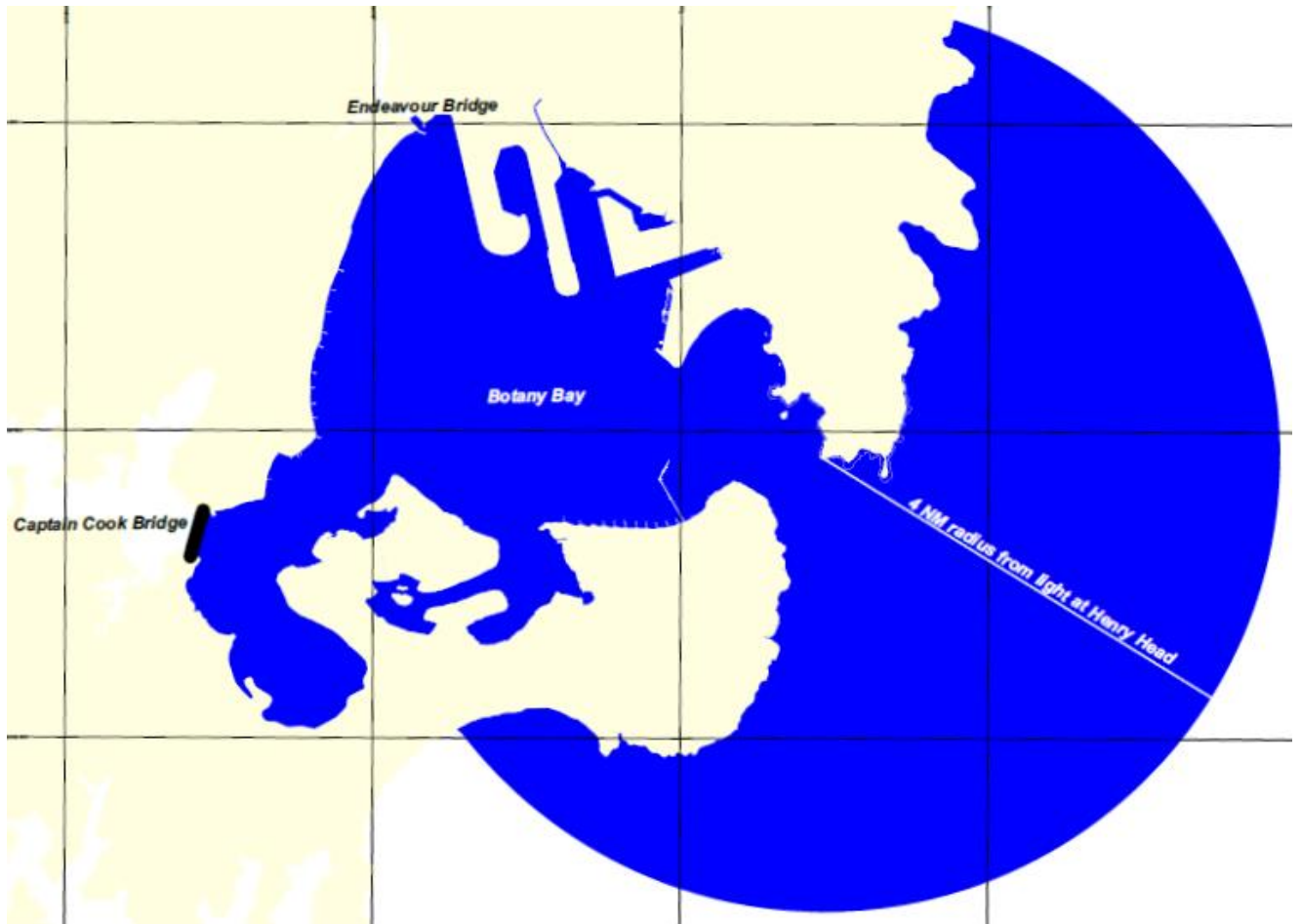


Figure 3: Port Boundaries - Botany Bay

Port Boundaries: Clarence River (Yamba)

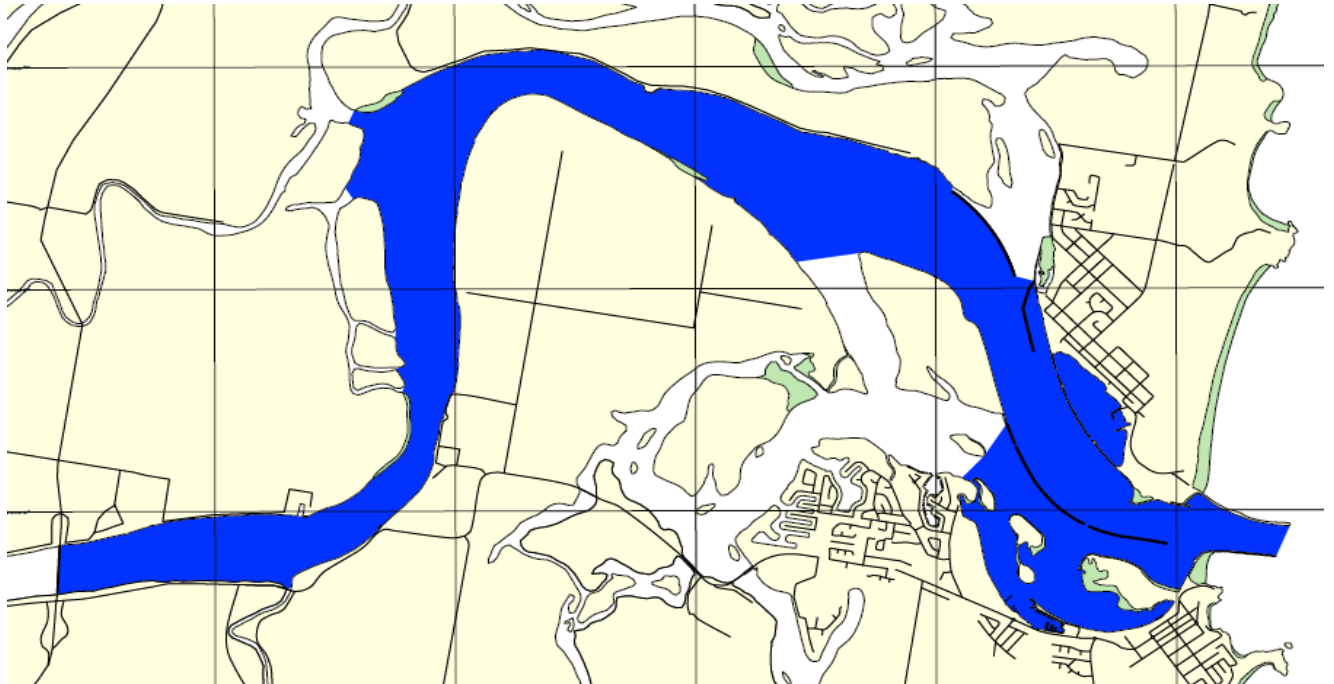


Figure 4: Port Boundaries – Clarence River (Yamba)

Port Boundaries - Eden

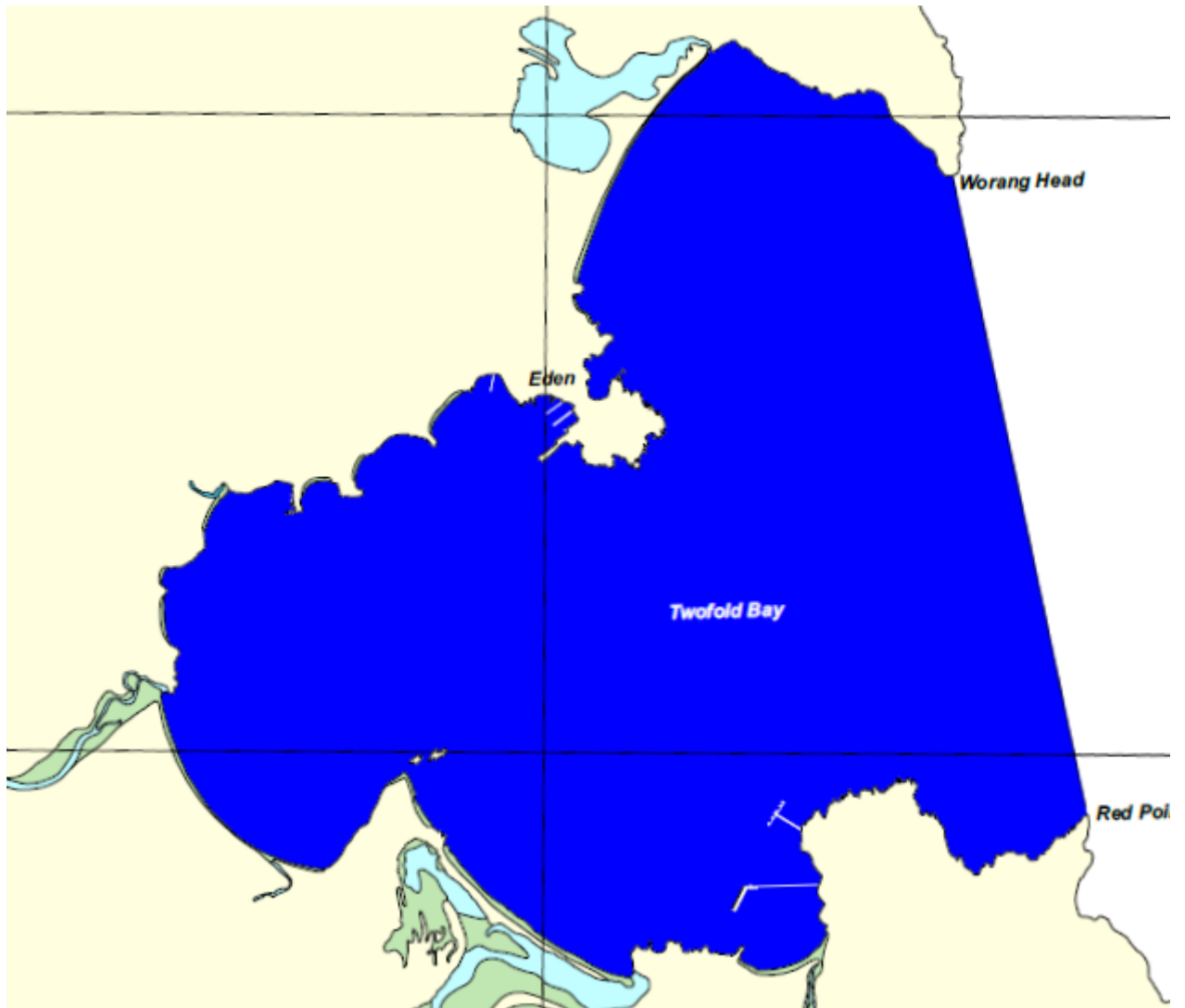


Figure 5: Port Boundaries - Eden

Port Boundaries - Port Kembla

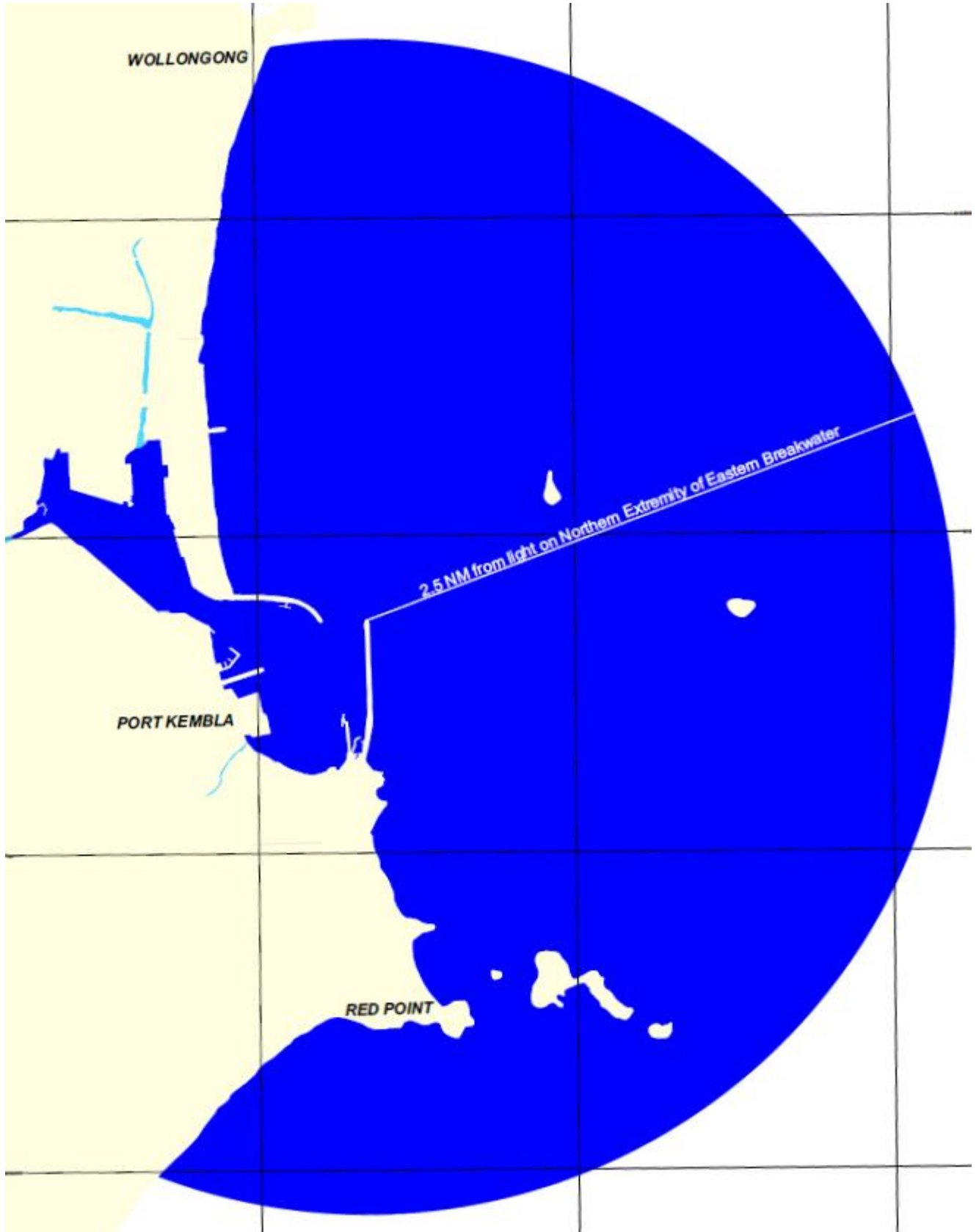


Figure 6: Port Kembla

APPENDIX 2 Area of Operations for Out of Port Oil and Chemical Spill Responses

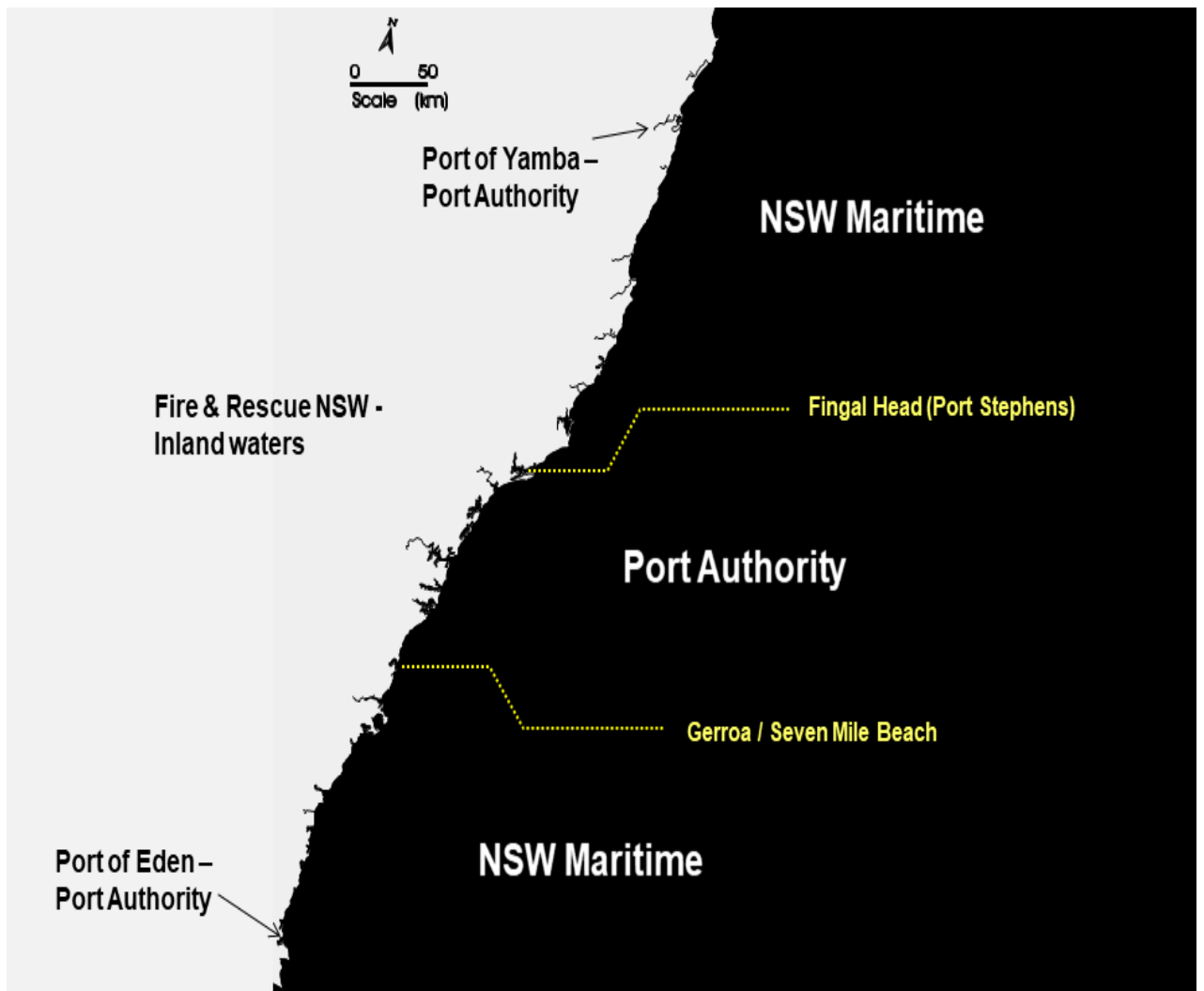


Figure 7:

APPENDIX 3 Channel and Berthing Box Performance Standards

1. Survey Methodology

The Licensee shall ensure that a survey methodology is adopted for each of the Ports which is consistent with the *Principles for Gathering and Processing Hydrographic Information in Australian Ports* as published by Ports Australia and amended from time to time or such other survey methodology as agreed in writing by the Parties.

2. Types and Frequency of Hydrographic Surveys

The type and frequency of hydrographic operations/surveys shall be determined by the Licensee primarily by using the risk assessment for each of the Ports.

3. Schedule of Surveys

The Licensee must submit to the Minister's Authorised Officer a Schedule of Surveys for each 12-month survey period, setting out, for each of the Ports:

- (a) Channels and Berthing Boxes to be surveyed;
- (b) date of the last survey; and
- (c) date of the next survey.

4. Promulgation of Depths

The Licensee must promulgate the latest depth information of Channels and Berthing Boxes, for each of the Ports as soon as practicable, to the following organisations:

- (a) the Australian Hydrographic Office; and
- (b) relevant Port users as deemed appropriate by the Licensee.

APPENDIX 4 Dangerous Goods

1. Monitoring

The Licensee must ensure that documented systems exist to enable confirmation:

- (a) on an annual basis by the relevant port facility operator/s, that shore-based personnel engaged in any activity relating to the handling of Dangerous Goods have received the appropriate training, including refresher training, in accordance with Chapter 1.3 of the International Maritime Dangerous Goods Code (IMDG Code) issued by the International Maritime Organization, as in force from time; and
- (b) on a continuous basis, that the Licensee's personnel engaged in any activity relating to the handling of Dangerous Goods have received appropriate training to administer the relevant clauses of Part 7 – Management of dangerous goods of the *Ports and Maritime Administration Regulation 2021* and the appropriate training, including refresher training, in accordance with Chapter 1.3 of the *International Maritime Dangerous Goods Code (IMDG Code)* issued by the International Maritime Organization, as in force from time.

The Licensee must use reasonable endeavours to encourage improvements in the management of Dangerous Goods through the use of available technology.

2. Approvals and Notifications

Within the Ports, the Licensee must:

- (a) process any application for a Dangerous Goods notification;
- (b) confirm that the ship/shore safety checklist for oil and oily waste transfers has been completed, including the check for securing of sea connections and overboard discharges; and
- (c) process any application for hot work notifications.

3. Audit

The Licensee shall conduct audits to monitor compliance with Dangerous Goods and hot works notifications issued based on the risk assessment of each Port.

APPENDIX 5 Emergency Response

1. Emergency Response Capability

The Licensee must maintain the emergency response capability described in clauses 11.1 and 11.2 at all times.

2. Emergency Response Plans

- (a) The Licensee must have an Emergency Response Plan for each of its Ports in respect of its obligations described in clauses 11.1 and 11.2.
- (b) The Licensee must ensure that documented operational procedures exist for all aspects of its emergency response activities, including those for the Licensee's incident control centres, guidelines for managing incidents and procedures for reporting incidents. All documentation must be kept up to date and be capable of being verified during the annual audit process.
- (c) The Licensee must conduct a review of its Emergency Response Plans at least once a year and after each significant activation of the Emergency Response Plans that warrants the formation of a formal Incident Management Team (IMT).
- (d) The Licensee must ensure that in relation to each of its obligations under clauses 11.1 to 11.2, that there is on-going training of the Licensee's personnel to deal with marine incidents in accordance with the Licensee's role in the relevant response plans.
- (e) The Licensee must ensure that it has the capacity to fulfil its obligations under clauses 11.1 or 11.2.

3. Response Time

- (a) The Licensee must respond to a port related emergency described in clause 11.1 within 30 minutes of notification. Such response means the initiation of an assessment and the activation of the relevant Emergency Response Plan as necessary.
- (b) The Licensee must respond to an out of port marine incident described in clause 11.2 within one hour of notification. Such response means the initiation of an assessment and the activation of the relevant Emergency Response Plan as necessary.
- (c) Response times will be measured from the log of events maintained by the Licensee.

4. Assistance to Other Agencies

- (a) The Licensee must, wherever possible, assist in a response to a marine incident in other State ports and NSW State waters at the request of Transport for NSW.
- (b) The Licensee must, wherever possible, participate in a national response to a major marine incident by providing personnel and resources when requested to do so by Transport for NSW in accordance with National Plan arrangements detailed in the NSW Plan.
- (c) The Licensee should, wherever possible, assist other NSW Government agencies as described in Sub Plans to the NSW State Emergency Management Plan and Functional Area Plans when requested to do so.

5. Exercises

The Licensee must:

- (a) exercise each of its Emergency Response Plan(s), once a year and carry out an equipment deployment exercise once a year. (An actual response to either a level 2 or level 3 oil spill within the areas described in Appendix 1 and 2 will count as the exercise for that year);
- (b) provide Transport for NSW with a schedule of these annual exercises Annually;
- (c) provide Transport for NSW at least one month prior notice of any exercise. Transport for NSW may send an observer for any exercise;
- (d) provide Transport for NSW with a report on the results of each exercise, no later than three months following the exercise; and
- (e) participate in any exercise of the *NSW State Waters Marine Oil and Chemical Spill Contingency Plan*.

6. Equipment

- (a) The Licensee must provide Transport for NSW with a status and schedule of equipment maintenance for the Licensee owned equipment upon request.
- (b) Should any major item of equipment necessary for an effective response to a marine incident be defective, missing or unserviceable at any time, Transport for NSW must be notified of this as soon as reasonably practicable and advised when it will be replaced or become serviceable. The notification of defective, missing or unserviceable equipment must also include advice as to what arrangements have been put in place to cover any ongoing unavailability of the equipment.

For the purpose of item (b) above, major items of equipment are:

- (i) oil containment booms;
- (ii) oil skimmers;
- (iii) deployment platforms for these booms and skimmers; and
- (iv) recovered oil storage tanks.

7. Investigations

The Licensee must ensure that documented operational procedures exist for gathering evidence and commencing prosecution in respect of offences under the relevant applicable legislation and that these procedures are kept up to date.

APPENDIX 6 Aids to Navigation

1. Schedule of Aids to Navigation

The Licensee must provide Transport for NSW with a schedule of those Aids to Navigation (AtoN) that are necessary for safe navigation in its shipping Channels, Vessel approaches and Berthing Boxes. The schedule shall identify each AtoN in accordance with the following categories as specified in the latest version of *IALA Recommendation R0130 Categorisation and Availability Objectives for Short Range Aids to Navigation*:

Table 3: Categories of Aids to navigation

Category	AtoN type
1	AtoN of vital navigational significance
2	AtoN of important navigational significance
3	AtoN of necessary navigational significance

The Licensee will notify Transport for NSW of any changes to its schedule of AtoNs.

2. Specifications

The AtoNs identified in the schedule shall conform to the specifications of the International Association of Marine Aids to Navigation and Lighthouse Authorities (IALA).

3. Availability

The AtoNs identified in the schedule must be available, on a rolling two yearly basis, as set out below:

Table 4: Aids to navigation that must be available on a two-year rolling schedule

Category	Availability
1	99.8%
2	99%
3	97%

4. Restoration

The Licensee shall ensure that any defective AtoNs identified in the schedule of AtoNs are restored as soon as practicable based upon the risk assessment of each Port.

5. Inspection and monitoring of Aids to Navigation

Subject to this clause, the AtoNs identified in the following schedule must be inspected as set out below:

Table 5: Aids to navigation categories and inspection schedule

Category	Visual inspection
1	Every 24 hours
2	weekly
3	weekly

Instead of physical inspection of an AtoN identified in the above schedule, the serviceability of an AtoN may be monitored remotely in accordance with manufacturer's specification and the risk assessment of each Port.

For the Ports of Eden and Yamba, an appropriate schedule of maintenance and inspection is required to be developed by the respective Harbour Master and may meet a lesser standard based on the risk assessment of the relevant Port.

APPENDIX 7 Pilotage Service

Training and assessment program

The Licensee must ensure it has a training and assessment program for all marine pilots that accords with the Marine Pilotage Code.

The Licensee must maintain appropriate documentation in respect of each pilot's activities to facilitate assessment in relation to the handling of different vessel types and the berthing and unberthing of vessels into particular berths.

Health assessment program

The Licensee is to maintain a health assessment program for all marine pilots.

Transport for NSW maintains an auditing function of compliance of the health assessment program with the Marine Pilotage Code under the relevant provisions of the Marine Pilotage Code. The Licensee must participate in such audit. For the avoidance of doubt, the auditing requirements set out in section 8.3 of this Licence exclude the auditing of health assessment program against the requirements of the Marine Pilotage Code.

APPENDIX 8 Exemptions from Pilotage

The Licensee must ensure that:

- (a) each master has complied with the necessary requirements for the issuance of a Pilotage Exemption Certificate;
- (b) each master operates under the Pilotage Exemption Certificate in accordance with its conditions, and during its period of validity; and
- (c) every exempt master is assessed regularly, for ship handling skills in the Port to which the marine pilotage exemption applies, by a person who holds a marine pilot's licence for that port who has been selected by the Licensee in accordance with the Licensee's procedures.

APPENDIX 9 Annual Report to the Minister

1. The Annual Report to the Minister is to be forwarded via the Deputy Secretary, Regional and Outer Metropolitan Division within Transport for NSW. It must provide the following covering statement:

I, (Name), do hereby certify that:

 - (i) This report relates to the period from (date) to (date).
 - (ii) Newcastle Port Corporation has achieved all the performance standards specified in its Licence and met the requirements set out in its Licence in respect of its Port Safety Functions;
OR
Newcastle Port Corporation has achieved all the performance standards and met the requirements set out in its Licence in respect of its Port Safety Functions with the exception of (nominate Port Safety Function).
Full details of, and reasons for, this non-conformance, along with a plan and timeframe for its rectification, are provided in the relevant attachment/s. A follow-up report indicating progress with achieving conformance will be provided by (nominate date).
 - (iii) Newcastle Port Corporation has maintained the quality assurance Certification of the Ports throughout the period under consideration.
2. The Annual Report to the Minister must include as an attachment the most recent audit reports resulting from the quality assurance Certification process and indicating performance against the requirements and performance standards of the Licence.